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AMERICAN STERLING BANK

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IN THE UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

DOREEN E. CHRISTIAN, individually and on behalf of all others similarly situated, Plaintiff, v. AMERICAN STERLING BANK, and DOES 1 through 10, inclusive, Defendant.	Case No. 3:08-CV-0090 LAB (RBBx) **DEFENDANT AMERICAN STERLING BANK'S ANSWER TO FIRST AMENDED CLASS ACTION COMPLAINT**

Defendant American Sterling Bank ("ASB") answers the First Amended Class Action Complaint ("FAC") of Plaintiff Doreen E. Christian, individually, and on behalf of all others similarly situated, as follows:

I.

INTRODUCTION

1. ASB admits that Plaintiff has instituted this action for the purposes stated and denies each and every other allegation in Paragraph 1 of the Complaint.

II.

THE PARTIES

2. ASB admits that Plaintiff entered into an Option ARM loan agreement ("Note") with ASB and that portions of a true and correct copy of a Note are attached as Exhibit 1 to Plaintiff's Complaint. Except as so admitted, ASB is without sufficient knowledge or information

to form a belief as to the truth of the remaining allegations contained in Paragraph 2, and on that basis denies each and every remaining allegation contained therein.

3. ASB admits it is licensed and engaged in the lending business, including Option ARM loan agreements, in certain portions of the country. Except as so admitted, ASB denies each and every allegation contained in Paragraph 3.

4. ASB admits it has been named as a Defendant in this action and that Plaintiff refers to ASB as Defendant in the Complaint. Except as so admitted, ASB denies each and every allegation contained in Paragraph 4.

5. ASB admits it is engaged in the lending business, including Option ARM loan agreements, in certain portions of the country.

6. The allegations of Paragraph 6 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 6 of the Complaint.

7. ASB denies the allegations contained in Paragraph 7 of the Complaint.

8. ASB denies the allegations contained in Paragraph 8 of the Complaint.

9. ASB admits that it is a business entity and that it conducts business in this judicial district. Except as so admitted, ASB denies each and every allegation contained in Paragraph 9.

10. ASB is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 10, and on that basis denies each and every allegation contained therein.

11. ASB is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 11, and on that basis denies each and every allegation contained therein.

12. The allegations of Paragraph 12 are legal argument and therefore require no response. To the extent a response is requires, ASB denies the allegations contained in Paragraph 12 of the Complaint.

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III.

JURISDICTION AND VENUE

13. Answering Paragraph 13, ASB denies committing any acts or omitting to perform any acts that give rise to a valid cause of action, but ASB does not contest subject matter jurisdiction in this matter.

14. Answering Paragraph 14, ASB admits that this Court has personal jurisdiction over ASB, but ASB denies committing any acts or omitting to perform any acts that give rise to a valid cause of action.

15. Answering Paragraph 15, ASB denies committing any acts or omitting to perform any acts that give rise to a valid cause of action, but ASB does not contest venue in this matter.

IV.

FACTS COMMON TO ALL CAUSES OF ACTION

16. ASB admits that it is engaged in the lending business and that an Option ARM or adjustable rate mortgage is the loan that is the subject of Plaintiff's Complaint. Except as so admitted, ASB denies each and every allegation contained in Paragraph 16.

17. The allegations contained in Paragraph 17 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 17 of the Complaint.

18. ASB denies the allegations contained in Paragraph 18 of the Complaint.

19. ASB admits that the loan agreement attached as Exhibit 1 has a variable rate feature with payment caps. Except as so admitted, ASB denies each and every allegation contained in Paragraph 19.

20. The allegations of Paragraph 20 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained in the Paragraph 20.

21. ASB denies the allegations contained in Paragraph 21 of the Complaint.

22. As to the conduct of other unidentified defendants, ASB is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph

22, and on that basis denies each and every such allegation contained therein. With respect to allegations directed to ASB, ASB denies each and every such allegation contained in Paragraph 22 of the Complaint.

23. ASB denies the allegations contained in Paragraph 23 of the Complaint.

24. ASB denies the allegations contained in Paragraph 24 of the Complaint.

25. ASB denies the allegations contained in Paragraph 25 of the Complaint.

26. ASB denies the allegations contained in Paragraph 26 of the Complaint.

27. ASB denies the allegations contained in Paragraph 27 of the Complaint.

28. ASB denies the allegations contained in Paragraph 28 of the Complaint.

29. ASB denies the allegations contained in Paragraph 29 of the Complaint.

30. ASB denies the allegations contained in Paragraph 30 of the Complaint.

31. ASB denies the allegations contained in Paragraph 31 of the Complaint.

32. ASB denies the allegations contained in Paragraph 32 of the Complaint.

33. The allegations of Paragraph 33 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained therein.

34. The allegations of Paragraph 34 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained therein.

35. ASB denies the allegations contained in Paragraph 35 of the Complaint.

36. ASB denies the allegations contained in Paragraph 36 of the Complaint.

37. The allegations of Paragraph 37 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained therein.

38. ASB denies the allegations contained in Paragraph 38 of the Complaint.

39. ASB denies the allegations contained in Paragraph 39 of the Complaint.

40. The allegations of Paragraph 40 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained

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therein.

41. ASB denies the allegations contained in Paragraph 41 of the Complaint.

42. ASB denies the allegations contained in Paragraph 42 of the Complaint.

43. ASB denies the allegations contained in Paragraph 43 of the Complaint.

44. ASB denies the allegations contained in Paragraph 44 of the Complaint.

45. ASB denies the allegations contained in Paragraph 45 of the Complaint.

V.

CLASS ACTION ALLEGATIONS

46. ASB admits that Plaintiff brings this action for the purposes listed. Except as so admitted, ASB denies each and every allegation contained in Paragraph 46.

47. The allegations of Paragraph 47 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 47 of the Complaint.

48. The allegations of Paragraph 48 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 48 of the Complaint.

49. The allegations of Paragraph 49 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 49 of the Complaint.

50. The allegations of Paragraph 50 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 50 of the Complaint.

51. The allegations of Paragraph 51 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 51 of the Complaint.

52. The allegations of Paragraph 52 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 52 of the Complaint.

VI.

FIRST CAUSE OF ACTION

Alleged Violations of Truth in Lending Laws, 15 U.S.C. § 1601, *et seq.*

(Against All Defendants)

53. ASB incorporates all preceding paragraphs in this Answer as though fully set forth herein.

54. The allegations of Paragraph 54 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 54 of the Complaint.

55. The allegations of Paragraph 55 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 55 of the Complaint.

56. The allegations of Paragraph 56 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 56 of the Complaint.

57. The allegations of Paragraph 57 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 57 of the Complaint.

58. The allegations of Paragraph 58 are legal argument and therefore require no response. To the extent a response is required, ASB denies the allegations contained in Paragraph 58 of the Complaint.

59. ASB denies the allegations contained in Paragraph 59 of the Complaint.

A. Defendants' Alleged Failure to Clearly and Conspicuously Disclose That the Payment Schedules Are Not Based on the Actual Interest Rate Violates TILA

60. The allegations of Paragraph 60 state a legal conclusion to which no response is required or appropriate.

61. The allegations of Paragraph 60 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained in

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Paragraph 61 of the Complaint.

62. The allegations of Paragraph 62 state a legal conclusion to which no response is required or appropriate. To the extent a response is required, ASB denies each and every allegation of Paragraph 62.

63. ASB denies the allegations contained in Paragraph 63 of the Complaint.

64. ASB denies the allegations contained in Paragraph 64 of the Complaint.

65. ASB denies the allegations contained in Paragraph 65 of the Complaint.

66. ASB denies the allegations contained in Paragraph 66 of the Complaint.

67. ASB denies the allegations contained in Paragraph 67 of the Complaint.

68. ASB denies the allegations contained in Paragraph 68 of the Complaint.

69. ASB denies the allegations contained in Paragraph 69 of the Complaint.

70. ASB denies the allegations contained in Paragraph 70 of the Complaint.

71. The allegations of Paragraph 71 state a legal conclusion to which no response is required or appropriate. To the extent a response is required, ASB denies each and every allegation of Paragraph 71.

72. ASB denies the allegations contained in Paragraph 72 of the Complaint.

B. Defendants' Alleged Failure to Clearly and Conspicuously Disclose the Legal Obligation Violates Truth in Lending Laws

73. The allegations of Paragraph 73 state a legal conclusion to which no response is required or appropriate.

74. The allegations of Paragraph 74 state a legal conclusion to which no response is required or appropriate.

75. The allegations of Paragraph 75 state a legal conclusion to which no response is required or appropriate.

76. The allegations of Paragraph 76 state a legal conclusion to which no response is required or appropriate.

77. The allegations of Paragraph 77 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained in

Paragraph 77 of the Complaint.

78. The allegations of Paragraph 78 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 78 of the Complaint.

C. Defendants' Alleged Failure to Clearly and Conspicuously Disclose the Actual Interest Rate Violates Truth in Lending Laws

79. The allegations of Paragraph 79 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 79 of the Complaint.

80. The allegations of Paragraph 80 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 80 of the Complaint.

81. ASB admits that in one part of the Note the promised low interest rate is the rate until the "change date" and that a description of the change date is found in another part of the Note. Except as so admitted, ASB denies each and every allegation contained in Paragraph 81 of the Complaint.

82. The allegations of Paragraph 82 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 82 of the Complaint.

83. The allegations of Paragraph 83 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 83 of the Complaint.

84. The allegations of Paragraph 84 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 84 of the Complaint.

85. ASB denies the allegations contained in Paragraph 85 of the Complaint.

86. ASB denies the allegations contained in Paragraph 86 of the Complaint.

87. ASB denies the allegations contained in Paragraph 87 of the Complaint.

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D. Defendants' Alleged Failure to Clearly and Conspicuously Disclose Negative Amortization Violates the Truth in Lending Laws

88. The allegations of Paragraph 88 state a legal conclusion to which no response is required or appropriate.

89. The allegations of Paragraph 89 state a legal conclusion to which no response is required or appropriate.

90. The allegations of Paragraph 90 state a legal conclusion to which no response is required or appropriate.

91. The allegations of Paragraph 91 state a legal conclusion to which no response is required or appropriate.

92. ASB denies the allegations contained in Paragraph 92 of the Complaint.

93. ASB denies the allegations contained in Paragraph 93 of the Complaint.

94. ASB denies the allegations contained in Paragraph 94 of the Complaint.

95. ASB denies the allegations contained in Paragraph 95 of the Complaint.

E. Defendant's Alleged Failure to Clearly and Conspicuously Disclose that the Initial Interest Rate is Discounted Violates Truth in Lending Laws

96. ASB is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 96, and on that basis denies each and every allegation contained therein.

97. ASB admits that variable rate loans are based on a "margin" and an "index" and that the index is often the Prime Rate or the LIBOR exchange rate. Except as so admitted, ASB denies each and every allegation contained in Paragraph 97 of the Complaint.

98. The allegations of Paragraph 98 state a legal conclusion to which no response is required or appropriate.

99. The allegations of Paragraph 99 state a legal conclusion to which no response is required or appropriate.

100. ASB is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 100, and on that basis denies each and every allegation

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contained therein.

101. The allegations of Paragraph 101 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 101 of the Complaint.

102. ASB denies the allegations contained in Paragraph 102 of the Complaint.

103. The allegations of Paragraph 103 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 103 of the Complaint.

104. The allegations of Paragraph 104 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 104 of the Complaint.

F. Defendant's Alleged Failure to Disclose the Composite Interest Rate Violates Truth in Lending Laws

105. ASB denies the allegations contained in Paragraph 105 of the Complaint.

106. The allegations of Paragraph 106 state a legal conclusion to which no response is required or appropriate.

107. The allegations of Paragraph 107 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 107 of the Complaint.

108. The allegations of Paragraph 108 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 108 of the Complaint.

109. The allegations of Paragraph 109 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 109 of the Complaint.

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G. Defendant's Alleged Failure to Clearly and Conspicuously Disclose the Effect of the Payment Cap on the True Cost of the Loan Violates Truth in Lending Laws

110. ASB admits that Plaintiff's Complaint puts at issue an Option ARM containing a variable rate feature with an initial fixed rate. ASB admits that a payment cap is a limit on how much a payment may be increased annually. ASB admits that the purpose of a payment cap is to provide borrowers with a limit on how much their payment can increase from year to year. Except as so admitted, ASB denies each and every allegation contained in Paragraph 110 of the Complaint.

111. The allegations of Paragraph 111 are legal argument and therefore no response is required. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 111 of the Complaint.

112. The allegations of Paragraph 112 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 112 of the Complaint.

113. The allegations of Paragraph 113 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 113 of the Complaint.

114. The allegations of Paragraph 114 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 114 of the Complaint.

VII.

SECOND CAUSE OF ACTION

ALLEGED FRAUDULENT OMISSIONS

(Against All Defendants)

115. ASB incorporates all preceding paragraphs in this Answer as though fully set forth herein.

116. The allegations of Paragraph 116 are legal argument and therefore require no

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response. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 116 of the Complaint.

117. The allegations of Paragraph 117 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 117 of the Complaint.

118. The Note attached to the Complaint speaks for itself and says what it says. ASB denies each and every other allegation contained in Paragraph 118 of the Complaint.

119. The Note attached to the Complaint speaks for itself and says what it says. ASB denies each and every other allegation contained in Paragraph 119 of the Complaint.

120. The Note attached to the Complaint speaks for itself and says what it says. ASB denies each and every other allegation contained in Paragraph 120 of the Complaint.

121. The allegations of Paragraph 121 are legal argument and therefore no response is required. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 121.

122. The allegations of Paragraph 122 are legal argument and therefore no response is required. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 122 of the Complaint.

123. The allegations of Paragraph 123 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 123 of the Complaint.

124. The allegations of Paragraph 124 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 124 of the Complaint.

125. ASB denies the allegations contained in Paragraph 125 of the Complaint.

126. ASB denies the allegations contained in Paragraph 126 of the Complaint.

127. The allegations of Paragraph 127 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 127 of the Complaint.

128. ASB denies the allegations contained in Paragraph 128 of the Complaint.

129. ASB denies the allegations contained in Paragraph 129 of the Complaint.

130. The allegations of Paragraph 130 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 130 of the Complaint.

VIII.

THIRD CAUSE OF ACTION

Alleged Violation of California's Unfair Competition Law, Bus. & Prof. Code § 17200 *et seq.*, "Unfair" and "Fraudulent" Business Acts or Practices

(Against All Defendant)

131. ASB incorporates all preceding paragraphs in this Answer as though fully set forth herein.

132. The allegations of Paragraph 132 are legal argument and therefore require no response. To the extent a response is required, ASB admits that Plaintiff purports to bring this cause of action on behalf of others. Except as so admitted, ASB denies each and every allegation contained in Paragraph 132 of the Complaint.

133. The allegations of Paragraph 133 are legal argument and therefore require no response. To the extent a response is required, ASB admits that Plaintiff purports to bring this cause of action on behalf of others. Except as so admitted, ASB denies each and every allegation contained in Paragraph 133 of the Complaint.

134. The allegations of Paragraph 134 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 134 of the Complaint.

135. ASB denies the allegations contained in Paragraph 135 of the Complaint.

136. ASB denies the allegations contained in Paragraph 136 of the Complaint.

137. ASB denies the allegations contained in Paragraph 137 of the Complaint.

138. ASB denies the allegations contained in Paragraph 138 of the Complaint.

139. ASB denies the allegations contained in Paragraph 139 of the Complaint.

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140. ASB denies the allegations contained in Paragraph 140 of the Complaint.

141. ASB admits that the interest rate varies on an ARM. Except as so admitted, ASB denies each and every allegation contained in Paragraph 141 of the Complaint.

142. ASB denies the allegations contained in Paragraph 142 of the Complaint.

143. The allegations of Paragraph 143 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 143 of the Complaint.

144. Paragraph 144 states a legal conclusion to which no response is required or appropriate. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 144 of the complaint.

145. Paragraph 145 states a legal conclusion to which no response is required or appropriate. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 145 of the complaint.

146. Paragraph 146 states a legal conclusion to which no response is required or appropriate. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 146 of the complaint.

147. Paragraph 147 states a legal conclusion to which no response is required or appropriate. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 147 of the complaint.

148. The allegations of Paragraph 148 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation in Paragraph 148 of the Complaint.

149. Paragraph 149 states a legal conclusion to which no response is required or appropriate. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 149 of the complaint.

150. Paragraph 150 states a legal conclusion to which no response is required or appropriate. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 150 of the complaint.

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151. Paragraph 151 states a legal conclusion to which no response is required or appropriate. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 151 of the complaint.

152. The allegations of Paragraph 152 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation in Paragraph 152 of the Complaint.

IX.

FOURTH CAUSE OF ACTION

Alleged Breach of Contract

(Against All Defendants)

153. ASB incorporates all preceding paragraphs in this Answer as though fully set forth herein.

153. ASB admits that the Note describes terms and respective obligations of the parties. Except as so admitted, ASB denies each and every allegation contained in Paragraph 153 of the Complaint.

154. ASB denies the allegations contained in Paragraph 154 of the Complaint.

155. Paragraph 155 states a legal conclusion to which no response is required or appropriate. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 155 of the Complaint.

156. ASB denies the allegations contained in Paragraph 156 of the Complaint.

157. Paragraph 157 states a legal conclusion to which no response is required or appropriate. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 157 of the Complaint.

158. ASB denies the allegations contained in Paragraph 158 of the Complaint.

159. ASB denies the allegations contained in Paragraph 159 of the Complaint.

160. Paragraph 160 states a legal conclusion to which no response is required or appropriate. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 160 of the Complaint.

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161. ASB denies the allegations contained in Paragraph 161 of the Complaint.

162. The allegations of Paragraph 162 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation in Paragraph 162 of the Complaint.

163. The allegations of Paragraph 163 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation in Paragraph 163 of the Complaint.

164. The allegations of Paragraph 164 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation in Paragraph 164 of the Complaint.

X.

FIFTH CAUSE OF ACTION

Alleged Tortious Breach of Covenant of Good Faith and Fair Dealing

(Against All Defendants)

165. ASB incorporates all preceding paragraphs in this Answer as though fully set forth herein.

166. Paragraph 166 states a legal conclusion to which no response is required or appropriate. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 166 of the Complaint.

167. The allegations of Paragraph 167 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 167 of the Complaint.

168. ASB denies the allegations contained in Paragraph 168 of the Complaint.

169. ASB denies the allegations contained in Paragraph 169 of the Complaint.

170. ASB denies the allegations contained in Paragraph 170 of the Complaint.

171. Paragraph 171 states a legal conclusion to which no response is required or appropriate. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 171 of the Complaint.

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172. ASB denies the allegations contained in Paragraph 172 of the Complaint.

173. The allegations of Paragraph 173 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation in Paragraph 173 of the Complaint.

174. The allegations of Paragraph 174 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation in Paragraph 174 of the Complaint.

175. The allegations of Paragraph 175 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation in Paragraph 175 of the Complaint.

176. ASB denies the allegations contained in Paragraph 176 of the Complaint.

177. The allegations of Paragraph 177 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation in Paragraph 177 of the Complaint.

178. Paragraph 178 states a legal conclusion to which no response is required or appropriate. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 178 of the Complaint.

179. The allegations of Paragraph 179 are legal argument and therefore require no response. To the extent a response is required, ASB denies each and every allegation in Paragraph 179 of the Complaint.

180. Paragraph 180 states a legal conclusion to which no response is required or appropriate. To the extent a response is required, ASB denies each and every allegation contained in Paragraph 180 of the Complaint.

181. ASB expressly denies each and every allegation contained in the Complaint unless expressly admitted herein.

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AFFIRMATIVE DEFENSES

Defendant ASB further responds to Plaintiff's First Amended Class Action Complaint by asserting the following Affirmative Defenses:

FIRST AFFIRMATIVE DEFENSE

182. The Complaint does not state facts sufficient to constitute a cause of action.

SECOND AFFIRMATIVE DEFENSE

182. The Complaint is barred, in whole or in part, by the applicable statutes of limitation, including but not limited to the statutes of limitation set forth in Civil Procedure Code Sections 337, 338, 339, 340, 343, Business and Professions Code Section 17208, Title 15, Section 1640 of the United States Code, and Title 12, Section 2614 of the United States Code.

THIRD AFFIRMATIVE DEFENSE

183. The Complaint is barred, in whole or in part, because Plaintiff consented to the terms of the transaction of which Plaintiff now complains.

FOURTH AFFIRMATIVE DEFENSE

184. The Complaint is barred, in whole or in part, by the doctrine of estoppel.

FIFTH AFFIRMATIVE DEFENSE

185. The Complaint is barred, in whole or in part, by the doctrine of unclean hands.

SIXTH AFFIRMATIVE DEFENSE

186. The Complaint is barred, in whole or in part, because if Plaintiff sustained injury or damage, said injury or damage was caused wholly or in part by the conduct, negligent acts or omissions, and/or fault of third parties or entities other than ASB, which conduct, acts or omissions, or fault was the sole proximate cause or an intervening or superseding cause of any injury or damage to Plaintiff.

SEVENTH AFFIRMATIVE DEFENSE

188. The Complaint is barred, in whole or in part, because any award in this action would constitute unjust enrichment.

EIGHTH AFFIRMATIVE DEFENSE

189. The Complaint is barred, in whole or in part because Plaintiff has failed to join an indispensable party.

NINTH AFFIRMATIVE DEFENSE

190. To the extent that Plaintiff is seeking any monetary recovery from ASB, that amount must be set off against amounts that Plaintiff currently owes ASB.

TENTH AFFIRMATIVE DEFENSE

191. Plaintiff's state law claims are preempted, in whole or in part, by federal statutory, regulatory, or common law, including but not limited to the TILA, 15 U.S.C. §§ 1600 *et seq*.

ELEVENTH AFFIRMATIVE DEFENSE

192. Plaintiff had a reasonably available alternative source of supply for the financing he sought and therefore cannot state a claim for unfair business practices.

TWELFTH AFFIRMATIVE DEFENSE

193. Plaintiff's TILA claim is barred because ASB acted in good faith in conformity with the rules, regulations, and interpretations of the Federal Reserve Board.

THIRTEENTH AFFIRMATIVE DEFENSE

194. Plaintiff's TILA claim is barred under 15 U.S.C. § 1640(b) because any violation alleged, if it occurred, was not intentional and resulted from a *bona fide* error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

FOURTEENTH AFFIRMATIVE DEFENSE

195. The Complaint is barred, in whole or in part, by the doctrine of waiver.

PRAYER FOR RELIEF

WHEREFORE, ASB prays as follows:

1. That Plaintiff take nothing by reason of her Complaint and that the same be dismissed with prejudice;

2. That ASB have judgment entered in its favor;

3. That ASB be awarded cots of suit, including attorneys' fees; and

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4. For such other and further relief as this Court deems proper.

Dated: August 28, 2008.

BRYAN CAVE LLP

By: [signature]
James Goldberg
Attorneys for Defendant
AMERICAN STERLING BANK

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